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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KRISHNAN, GANAPATHY

ART UNIT PAPER NUMBER

1623

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



### **DETAILED ACTION**

The amendment filed 7/18/2005 has been received, entered and carefully considered.

The following information provided in the amendment affects the instant application:

1. Claims 1, 8, 15, 22, 24 and 26 have been amended.
2. Remarks drawn to rejections under 35 U.S.C. 112, second paragraph, 102(b) and 103(a).

Claims 1-27 are pending in the case.

The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior Office action.

#### ***Claim Objections***

The objection to claim 15 has been overcome by amendment and applicant's arguments.

#### ***Claim Rejections - 35 USC § 112***

Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been overcome by amendments and applicants arguments.

#### ***Claim Rejections - 35 USC § 102***

Claims 1, 5, 7, 8, 14, 15, 20, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Czernecki et al (J. Org. Chem. 1991, 56, 6289-6292) is being maintained for reasons of record.

***Claim Rejections - 35 USC § 103***

Claims 1-4, 6, 9-13, 15-19 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czernecki et al (J. Org. Chem. 1991, 56, 6289-6292) in combination with Hawley's Condensed Chemical Dictionary, 13<sup>th</sup> Edition, 1997, page 180 and Grant and Hackh's Chemical Dictionary, 5<sup>th</sup> edition, 1987, page 436 is being maintained for reasons of record.

***Response to Applicants Arguments***

Applicants argue that:

1. Czernecki teaches a batch process for the preparation of glycosides at cryogenic temperatures. In contrast, the instant process the first step of forming the lithiated anion is carried out in a continuous process in a microreactor.

This is not found to be persuasive.

The process of instant claim 1 is drawn to making a glycoside by first carrying out the lithiation of an aromatic reactant having a leaving group at non-cryogenic conditions (above -20°C) and then in a second step coupling the lithiated anionic aromatic species with a carbonyl substituted reactant to form a glycoside. According to the claim recitation the coupling of the lithiated anionic aromatic species with the carbonyl compound need not necessarily be carried out at non-cryogenic conditions. There is no recitation regarding the yield. Czernecki's process comprises a first step of lithiation of an aryl bromide at room temperature (above -20°C; non-cryogenic) followed by reaction of the lithiated anionic aromatic reactant with a sugar (carbonyl substituted reactant) to form a glycoside (page 6291, right column, see description for preparation of compound 8a). The instant claims are also drawn to a glycoside. This embraces

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any glycoside including one that is protected. Czernecki et al teach greater than 80% yields of a protected glycoside (compound 8a). This teaching of Czernecki et al anticipates the instant claims 1, 5, 7, 8, 14, 15, 20, 21 and 22 and for the reasons above and those advanced in the previous office action, also render obvious instant claims 1-4, 6, 9-13, 15-19 and 23-27.

In Table 1 (page 5 of applicants response) the instant continuous run in a microreactor comprises the lithiation step performed at  $-10^{\circ}\text{C}$  (non-cryogenic condition) followed by the coupling step performed at  $-78^{\circ}\text{C}$  (cryogenic condition). This same combination of conditions has not been done for the batch process for a proper comparison. Instant claim 1 is drawn to lithiation at non-cryogenic condition and coupling to carbonyl-substituted reactant at cryogenic conditions (the claim doesn't recite any condition for the coupling step).

It is well established that batch and continuous processes are not patentably distinct. In re Dilnot, 319 F.2d 188, 138 U.S.P.Q. 248 (C.C.P.A. 1963).

### ***Conclusion***

Claims 1-27 are rejected

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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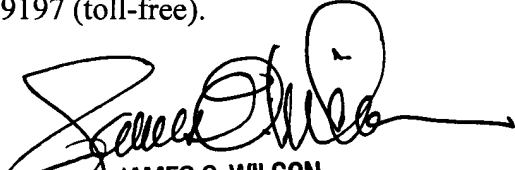
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ganapathy Krishnan whose telephone number is 571-272-0654. The examiner can normally be reached on 8.30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GK



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